

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIE SMITH,

Plaintiff,

Case No. 09-14490

Honorable Patrick J. Duggan vs.

v.

FLINT POLICE DEPARTMENT,

Defendant,

_____ /

ORDER OF SUMMARY DISMISSAL

On November 17, 1999, Plaintiff filed this civil rights complaint against Defendant pursuant to 42 U.S.C. § 1983. At the time of the filing of the complaint, Plaintiff was incarcerated at the Genesee County Jail in Flint, Michigan. On December 3, 2009, Magistrate Judge R. Steven Whalen signed an order of deficiency, ordering Plaintiff to pay the \$ 350.00 filing fee or submit an application to proceed *in forma pauperis* within thirty days of the order. To date, Plaintiff has neither paid the filing fee in full nor supplied this Court with the requested information. Therefore, the Complaint is dismissed with prejudice.

The Prisoner Litigation Reform Act of 1995 (PLRA) states that “if a prisoner brings a civil action or files an appeal *in forma pauperis*, the prisoner shall be required to pay the full amount of a filing fee.” 28 U.S.C. § 1915(b)(1)(as amended). *See also In Re Prison Litigation Reform Act*, 105 F. 3d 1131, 1138 (6th Cir. 1997). The *in forma pauperis* statute, 28 U.S.C. § 1915(a), does provide prisoners the opportunity to make a

“down payment” of a partial filing fee and pay the remainder in installments. *See Miller v. Campbell*, 108 F. Supp. 2d 960, 962 (W.D. Tenn. 2000). Under the PLRA, a prisoner may bring a civil action *in forma pauperis* if he files an affidavit of indigency and a certified copy of his trust fund account statement for the six-month period immediately preceding the filing of the complaint. *See* 28 U.S.C.A. § 1915(a). If the inmate does not pay the full filing fee and fails to provide the required documents, the district court must notify the prisoner of the deficiency and grant him thirty days to correct it or pay the full fee. *See McGore v. Wrigglesworth*, 114 F. 3d 601, 605 (6th Cir.1997). If the prisoner does not comply, the district court must presume that the prisoner is not a pauper, assess the inmate the full fee, and order the case dismissed for want of prosecution. *Id.*

Plaintiff’s Complaint is subject to dismissal for want of prosecution due to Plaintiff’s failure to comply with Magistrate Judge Whalen’s deficiency order within the thirty days granted in the order. Plaintiff has neither paid the filing fee nor provided the requested documentation needed to proceed *in forma pauperis*.

Accordingly,

IT IS ORDERED, that Plaintiff’s Complaint is **DISMISSED** pursuant to 28 U.S.C. §§ 1915(a) and (b).

DATE: October 15, 2010

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT COURT JUDGE

Copy to:
Willie Smith
Genesee County Jail
1002 S. Saginaw Street
Flint, MI 48502